

# **PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))**

| Patent Number | Issue Date<br>(YYYY-MM-DD) | Application<br>Number | Filing Date<br>(YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|----------------------------|-----------------------|-----------------------------|-------------------------------|
| 7,283,154     | 2001-10-16                 | 10/801,112            | 2004-03-16                  | 3301.01-11269US               |

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

## **SMALL ENTITY**

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

## **LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS**

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

| NOT Small Entity      |           |        | Small Entity                     |           |        |
|-----------------------|-----------|--------|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee       | Code   | <input checked="" type="radio"/> | Fee       | Code   |
| <input type="radio"/> | 3 ½ year  | (1551) | <input type="radio"/>            | 3 ½ year  | (2551) |
| <input type="radio"/> | 7 ½ year  | (1552) | <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/> | 11 ½ year | (1553) | <input type="radio"/>            | 11 ½ year | (2553) |

## **SURCHARGE**

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

## **MAINTENANCE FEE (37 CFR 1.20(e)-(g))**

The appropriate maintenance fee must be submitted with this petition.

## **STATEMENT**

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL.

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

## **THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES**

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number

## Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

|           |                      |                     |            |
|-----------|----------------------|---------------------|------------|
| Signature | /Edgar R. Cataxinos/ | Date (YYYY-MM-DD)   | 2012-05-07 |
| Name      | Edgar R. Cataxinos   | Registration Number | 39931      |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.

## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Patent of:** Shachar et al.

**Patent No.:** 7,283,154

**Issued:** October 16, 2007

**Serial No.:** 10/801,112

**Filed:** March 16, 2004

**For:** SYSTEM AND METHODS FOR  
VIDEOCONFERENCE AND/OR DATA  
COLLABORATION INITIATION

**Attorney Docket No.:** 3301.01-11269US

VIA ELECTRONIC FILING  
May 7, 2012

**PETITION TO ACCEPT DELAYED PAYMENT OF MAINTENANCE FEE**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This statement is being filed together with PTO/SB/66 form, the required maintenance fee set forth in 37 CFR 1.20 (e)-(g), and the surcharge for an unintentionally expired patent as set forth in 37 CFR 1.20(i)(2).

I, Isaac Ben-Ezra, do hereby attest as follows:

1. I am the Chief Executive Officer of Emblaze VCON LTD, a private limited company established in Israel ( hereafter "VCON"), which is the assignee of the patent identified in the header above (hereinafter "the Patent"), as evidenced by the assignment recorded at Reel 018635 and Frame 0670 on December 15, 2006.

2. VCON was formed in 1995; in 2005, VCON was acquired by the Emblaze group and was delisted after being a publically traded company.
3. Between the years 2008 to 2010, upon the impact of the economic crisis, VCON experienced significant ownership reorganization and business deterioration that lead to uncontrolled managerial turmoil.
4. In January of 2011, the company was, again, acquired by new investors, including me in my role as CEO ("New Owners"), and technology based company in a market that is being dominated by only two or three players.
5. The New Owners had very little background experience in the hi-tech field and were not familiar or aware of the patenting processes, including its administrative requirements. Furthermore, it was later discovered by the New Owners that, in their Due Diligence process, the sellers failed to reflect the correct status of VCON's patent portfolio, including the correct maintenance and fee deadlines.
6. While the focus was on closing the transaction and salvaging the company and its business, the New Owners involuntarily continued relying on the services of the 'inherited' IP counsels of the company. Those, as was seemingly the case before, continued to fail in conveying the urgency and delivering the appropriate services to the New Owners given the new circumstances.
7. The New Owners regret that had they understood the status of the patent portfolio and given appropriated counseling, they would have acted relentlessly to serve and maintain it.
8. Unbeknownst to VCON's management and the New Owners, particularly in the midst of the ownership and managerial turmoil, together with lack of appropriate patent counseling, resulted in the abandonment of the patent in 2011.
9. We are in the process of selling VCON's assets, including patents and intellectual property; in view of the same, we have been conducting due diligence investigations, which brought the present patent abandonment to our attention.
10. We have hired new patent counsel, and are undertaking any and all necessary actions to revive the patent.

11. On or around December 3, 2011, I was informed by the law firm of TraskBritt that the Patent had expired for failure to pay the 4<sup>th</sup> year maintenance fee, which was due on or before April 19, 2011.
12. I was never informed by prior patent counsel that maintenance fees for the Patent were not being handled and paid in a full and complete manner. Absent any indication to the contrary, I reasonably relied on prior counsel to continue to pay the necessary maintenance fees since the representatives of the corporation had said they intended to do so and to use the Patent for commercial purposes. Further, prior patent counsel had apparently paid all previous fees for the Patent, e.g., the issue fee.
13. I never received any communication from the United States Patent and Trademark Office either directly or indirectly through prior patent counsel indicating that payment of maintenance fees was not being diligently and completely handled by them.
14. I did not intentionally abandon the Patent.
15. The entire delay in my paying of the required maintenance fee due on or before April 19, 2011 until the filing of a grantable petition under 37 CFR 1.138 was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the Patent.

Respectfully submitted, -

Isaac Ben-Ezra  
Chief Executive Officer  
Emblaze VCON LTD